

CITY OF FAIRFAX

**TELECOMMUNICATION FACILITY
BONDING PACKAGE**



© 1973 City of Fairfax



CITY OF FAIRFAX TELECOMMUNICATION FACILITY BONDING PACKAGE

CONTENTS

- ❖ Informational Letter
- ❖ City of Fairfax Telecommunications Code, Ordinance & Policy
- ❖ Telecommunications Construction / Removal Agreement
- ❖ Telecommunication Construction / Removal Bond
- ❖ Sample Letter of Credit

IMPORTANT PHONE NUMBERS All AREA CODE (703)

| | |
|----------------------|----------|
| Planning Director | 385-7930 |
| Zoning Administrator | 385-7820 |
| Architectural Review | 385-7930 |



CITY OF FAIRFAX

Department of Community Development & Planning

July 2013

Dear Applicant,

During the final stages of the City of Fairfax Administrative Review Process or after a Special Use Permit has been granted by City Council, a Telecommunications Agreement will require completion and submission with the bond instrument to the City's Development Bond Administrator with the appropriate surety review fees (below). Once the agreement(s) have been executed by the City, copies of the signed agreements will be sent electronically or by first class US mail for your records.

Account Number & Title FY 13-14 Adopted Fees (316466 Surety Review)

Performance bond*, letter of credit, cash escrow

| | |
|---------------------------------|----------|
| Less than \$100,000 | \$275.00 |
| \$100,001-300,000 | \$550.00 |
| More than \$300,000 | \$800.00 |
| Request for reduction | \$275.00 |
| Request for replacement/release | \$275.00 |

***Note: a performance bond/corporate surety, cash escrow or letter of credit will be accepted for Telecommunications Bonds.**

If you should have any questions regarding the bonding process, please contact the Development Bond Administrator at 703.385.7930.

Best Regards,

Tina Gillian
Administrative Assistant IV

Sec. 110-35. - Spires, towers, antennas and projections.

- (a) Church spires and similar integral towers not used for human habitation, excluding signs, may extend above the height limitation fixed in this section. Walls and similar projections not used for human habitation, excluding signs, may extend above the height limitation not exceeding five feet.
- (b) Antennae structures and towers for radio, television, and/or telecommunications reception or transmission (hereafter referred to as telecommunication facilities) may be located on existing conforming structures in the city not to exceed a maximum height of 65 feet measured from the ground level to the highest point of such structure or telecommunication facility. If the total height of the telecommunication facility and the structure on which it is mounted exceeds 12 feet, the placement and location of such telecommunication facility shall be subject to approval of the zoning administrator, who shall coordinate this decision with the building official. The zoning administrator shall employ the following standards and criteria in determining whether to approve any proposed placement or location of such telecommunication facility pursuant hereto:
 - (1) The placement or location shall conform to all building restriction lines and setbacks in the applicable zoning district.
 - (2) The placement or location shall minimize any danger of personal injury or property damage to adjoining property owners and the applicant in the event such telecommunications facility and/or the structure on which it is mounted should collapse or otherwise become unstable.
 - (3) The placement or location shall take advantage of existing topography, trees, structures and other obstructions to screen such telecommunications facility from adjoining and nearby properties to the extent possible; provided that the placement or location does not prevent compliance with the standards and criteria set forth in subsections (b)(1) and (2) of this section.
 - (4) The proposed facility and/or structure shall be consistent with the city's adopted policy for telecommunications facilities.
- (c) The city council may by special use permit approve a total height greater than 65 feet for a telecommunication facility and the structure on which it is mounted in accordance with the procedures and review criteria as set forth in [section 110-366](#), as well as additional guidelines established by the adopted city council policy. The zoning administrator does not have the authority to approve stand-alone telecommunications facilities and/or towers (also known as monopoles). Such stand alone telecommunications facilities and/or towers may be approved only by the city council in those zoning districts where such a use is permitted with a special use permit, subject to following criteria and standards:
 - (1) The placement or location shall conform to all building restriction lines and setbacks in the applicable zoning district.
 - (2) The placement or location shall minimize any danger of personal injury or property damage to adjoining property owners and the applicant in the event such telecommunication facility and/or the structure on which it is mounted should collapse or otherwise become unstable.
 - (3) The placement or location shall take advantage of existing topography, trees, structures and other obstructions to screen such telecommunication facility from adjoining and nearby property owners to the extent possible; provided that the

placement or location does not prevent compliance with the standards and criteria set forth in subsections (c)(1) and (2) of this section.

- (4) The proposed structure and/or facility shall be consistent with the city's policy for telecommunications facilities.
- (5) Such special use permit shall be granted only if the city council finds the application to be in full conformance with adopted city ordinances, and state and federal law.
- (6) In granting a special use permit for telecommunications facilities, the city council may impose conditions to the extent that such conditions are necessary to minimize any adverse effect of the proposed telecommunications facilities on surrounding properties.
- (7) A conceptual development plan shall be submitted for each such facility with the application for a special use permit containing the following:
 - a. Locations and dimensions of existing and proposed lot lines and rights-of-way.
 - b. General locations and dimensions of all existing and proposed structures, telecommunication facility, support structures, driveways, curb cuts, parking and loading spaces and aisles, and storage areas on the site.
 - c. General locations, types and size of all existing and proposed on-site landscaping, screening and buffering.
 - d. Architectural elevations of each facade visible from a public street or residential zoning district, indicating approximate height of the proposed and adjacent structures, architectural style and building materials.
 - e. A written description of the facility design and a diagram of the cross-section of the facility and any support structure.
 - f. A list of all radio frequencies (transmit and receive) that are planned to be utilized at the site (including, without limitation, proposed output levels and antenna coverage areas) by the applicant and an engineering study to establish that the frequencies will not cause interference with any city communications systems. The zoning administrator may waive the provision for an engineering study upon determining that there would be no interference with the city's emergency communications system.
 - g. A letter of intent committing, to the extent possible, the applicant and all successors in interest to allow shared use of the facility subject to reasonable terms and conditions for collocation.
 - h. A map indicating the proposed immediate service area of the facility and identifying nearby areas that will be served and those that will not be properly served by the facility.
 - i. A report, prepared by a licensed professional engineer, demonstrating that the existing structure can safely support the facility.
 - j. Additional information deemed essential by the zoning administrator or city council to permit adequate review and evaluation of the proposal.

(Code 1978, § 26-12)

ORDINANCE NO. 1998-1

AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF THE CITY OF FAIRFAX TO MODIFY ARTICLES I THROUGH IX, ARTICLES X THROUGH XII AND ARTICLE XV TO PROVIDE FOR TELECOMMUNICATION FACILITIES IN ALL ZONING DISTRICTS WITH A SPECIAL USE PERMIT FROM THE CITY COUNCIL.

WHEREAS, telecommunication facilities generally require antenna heights in excess of the heights permitted within most of the City's zoning; and

WHEREAS, telecommunication facilities provide a benefit to the public; and

WHEREAS, telecommunication facilities can be planned, located, designed and constructed to minimize their visual and physical impacts; and

WHEREAS, telecommunication facilities can be appropriate uses for some locations in each of the City's zoning districts;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fairfax, Virginia, that Article I, Sec. 26-4 of the Code of the City of Fairfax, Virginia, is hereby amended to add definitions for "monopole" and "telecommunication facility" as follows:

Monopole: A single, self-supporting pole-type structure, tapering from the base to the top and supporting a fixture designed to hold one or more telecommunications antennas.

Telecommunication Facility: Whip antennas, panel antennas, microwave dishes, satellite dishes and like devices for wireless transmission or reception including, but not limited to, mobile cellular telephones, mobile radio system facility, and telephone repeater stations.

BE IT FURTHER ORDAINED that Article II, Sec. 26-12 of the Code of the City of Fairfax, Virginia, is hereby amended to replace subsection (b) and to add subsection (c) as follows:

Sec. 26-12. Spires, towers, antennas, etc.

(b) Antennae structures and towers for radio, television, and/or telecommunications reception or transmission (hereinafter referred to as telecommunication facilities) may be located on existing conforming structures in the city not to exceed a maximum height of sixty-five (65) feet measured from the ground level to the highest point of such structure or telecommunication facility. In the event the total height of the telecommunication facility and the structure on which it is mounted exceeds twelve (12) feet, the placement and location of such telecommunication facility shall be subject to approval of the zoning administrator, who shall coordinate this decision with the building official. The zoning administrator shall employ the following standards and criteria in determining whether to approve any proposed placement or location of such telecommunication facility pursuant hereto:

- (1) The placement or location shall conform to all building restriction lines and setbacks in the applicable zoning district.
- (2) The placement or location shall minimize any danger of personal injury or property damage to adjoining property owners and the applicant in the event such telecommunications facility and/or the

structure on which it is mounted should collapse or otherwise become unstable.

- (3) The placement or location shall take advantage of existing topography, trees, structures and other obstructions to screen such telecommunications facility from adjoining and nearby properties to the extent possible; provided that the same does not prevent compliance with the standards and criteria set forth in (1) and (2) herein above.
- (4) The proposed facility and/or structure shall be consistent with the city's adopted policy for telecommunications facilities.

(c) The city council may by special use permit approve a total height greater than sixty-five (65) feet for a telecommunication facility and the structure on which it is mounted in accordance with the procedures and review criteria as set forth in section 26-103, as well as additional guidelines established by the adopted city council policy. The zoning administrator does not have the authority to approve stand-alone telecommunications facilities and/or towers (also known as monopoles). Such stand alone telecommunications facilities and/or towers may be approved only by the city council in those zoning districts where such a use is permitted with a special use permit, subject to following criteria and standards:

- (1) The placement or location shall conform to all building restriction lines and setbacks in the applicable zoning district.
- (2) The placement or location shall minimize any danger of personal injury or property damage to adjoining property owners and the applicant in the event such telecommunication facility and/or the structure on which it is mounted should collapse or otherwise become unstable.
- (3) The placement or location shall take advantage of existing topography, trees, structures and other obstructions to screen such telecommunication facility from adjoining and nearby property owners to the extent possible; provided that the same does not prevent compliance with the standards and criteria set forth in (1) and (2) herein above.
- (4) The proposed structure and/or facility shall be consistent with the city's policy for telecommunications facilities.
- (5) Such special use permit shall be granted only if the city council finds the application to be in full conformance with adopted city ordinances, and state and federal law;
- (6) In granting a special use permit for telecommunications facilities, the city council may impose conditions to the extent that such conditions are necessary to minimize any adverse effect of the proposed telecommunications facilities on surrounding properties.
- (7) A conceptual development plan shall be submitted for each such facility with the application for a special use permit containing the following:
 - a. Locations and dimensions of existing and proposed lot lines and rights-of-way.

- b. General locations and dimensions of all existing and proposed structures, telecommunication facility, support structures, driveways, curb cuts, parking and loading spaces and aisles, and storage areas on the site.
- c. General locations, types and sizes of all existing and proposed on-site landscaping, screening and buffering.
- d. Architectural elevations of each façade visible from a public street or residential zoning district, indicating approximate height of the proposed and adjacent structures, architectural style and building materials.
- e. A written description of the facility design and a diagram of the cross-section of the facility and any support structure.
- f. A list of all radio frequencies (transmit and receive) that are planned to be utilized at the site (including, without limitation, proposed output levels and antenna coverage areas) by the applicant and an engineering study to establish that the frequencies will not cause interference with any city communications systems. The zoning administrator may waive the provision for an engineering study upon determining that there would be no interference with the city's emergency communications system.
- g. A letter of intent committing, to the extent possible, the applicant and all successors in interest to allow shared use of the facility subject to reasonable terms and conditions for collocation.
- h. A map indicating the proposed immediate service area of the facility and identifying nearby areas that will be served and those that will not be properly served by the facility.
- i. A report, prepared by a licensed professional engineer, demonstrating that the existing structure can safely support the facility.
- j. Additional information deemed essential by the zoning administrator or city council to permit adequate review and evaluation of the proposal.

BE IT FURTHER ORDAINED that Article III, Sec. 26-106 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (p) as follows:

- (p) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article IV, Sec. 26-110 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (q) as follows:

- (q) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article V, Sec. 26-114 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (s) as follows:

- (s) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article VI, Sec. 26-118 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (e) as follows:

- (e) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article VII, Sec. 26-124 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (e) as follows:

- (e) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article VIII, Sec. 26-132 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (e) as follows:

- (e) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article IX, Sec. 26-139 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (d) as follows:

- (d) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article X, Sec. 26-150 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (c) as follows:

- (c) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article XI, Sec. 26-160 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (c) as follows:

- (c) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height,

BE IT FURTHER ORDAINED that Article XI, Sec. 26-160 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (c) as follows:

- (c) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article XII, Sec. 26-167 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (a)(5) as follows:

- (5) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).

BE IT FURTHER ORDAINED that Article XV, Sec. 26-182 of the Code of the City of Fairfax, Virginia, is hereby amended by adding subsection (f) as follows:

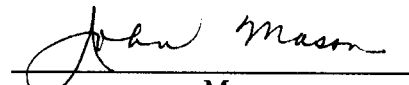
- (f) Telecommunications facilities that, together with the structures on which they are mounted, exceed sixty-five (65) feet in height, subject to meeting the policy guidance, criteria and standards set forth in Section 26-12(c).


This ordinance shall become effective as provided by law.

Planning Commission Hearing: November 24, 1998

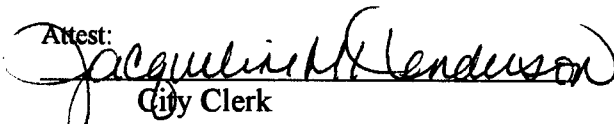
City Council Hearing: January 13, 1998

ADOPTED: January 13, 1998



Mayor


Date

Attest:


City Clerk

Councilman Mershon was absent. The vote to adopt was approved 5-0, recorded as follows:

| | | |
|-------|-------------------------|---------------|
| Vote: | Councilman Coughlan | <u>aye</u> |
| | Councilman Greenfield | <u>aye</u> |
| | Councilwoman Lyman | <u>aye</u> |
| | Councilman Mershon | <u>absent</u> |
| | Councilman Rasmussen | <u>aye</u> |
| | Councilman Silverthorne | <u>aye</u> |

**A POLICY
FOR APPROVAL, SITING, AND DESIGN OF
TELECOMMUNICATIONS TRANSMITTING
AND RECEIVING FACILITIES.**

This Policy is intended to provide more detailed guidance and amplification of the telecommunications objectives listed in the Comprehensive Plan. The policy reiterates the requirement to collocate facilities, where possible, and to ensure compatibility of land uses. Further, it addresses in depth the siting and design criteria referenced by the third of the telecommunications objectives listed in the Comprehensive Plan. Telecommunication facilities should be provided only in accordance with the guidelines listed under the Collocation, Compatibility, and Siting and Design objectives below. In such case where the application of one guideline may conflict with the application of another, the best balance should be achieved to minimize the negative impacts of the facility and to ensure compatibility with nearby land uses.

Objective I: Collocation

The City will seek to minimize the impact of telecommunication facilities by requiring that providers of telecommunication services:

1. Locate necessary antennas and equipment on existing structures;
2. Share facility locations on the same property with other service providers;
3. Share items such as structural attachments, cable shrouds, equipment shelters, and equipment cabinet pads with other service providers;
4. Coordinate with other service providers in the fulfillment of any screening, landscaping, access and utility requirements; and
5. Coordinate with other service providers in the digging of trenches or underground conduits for the placement of any cables or other equipment under or through any street or right-of-way.

Objective II: Compatibility with Nearby Land Uses

The City will attempt to ensure compatibility of telecommunications facilities with nearby land uses by assuring that the providers of telecommunications services:

1. Locate telecommunications facilities in the following areas in descending order of preference:
 - (a) On property that is already developed with a public utility structure that is at least 90% of the height of the proposed telecommunications facility;
 - (b) On property that is already developed with any structure that is at least 90% of the height of the proposed telecommunications facility;
 - (c) In industrial districts;
 - (d) In low visibility areas of commercial districts;
 - (e) In properly buffered and screened residential districts where a clear need for such facility has been established and no

- industrial or commercial land is available nearby that is technically suitable to support the facility;
2. Locate each antenna that is to be attached to an existing building or to an existing public utility structure in such a manner as to provide the least visual impact of the facilities on the surrounding public and residential areas;
 3. Locate each antenna that is to be attached to a new freestanding structure (including a monopole) or to an existing or reconstructed tower to minimize its height and visibility. Provide a setback for the entire structure from all lot lines and on-site buildings, customer parking areas, and other areas designated for regular active use. The setback should be a horizontal distance equal to the height of the top of the antenna above average elevation of the ground around the structure;
 4. Locate all transmitting, receiving, switching, power and other supporting equipment entirely within existing buildings, where possible;
 5. Meet the setback requirements of the zone for any new buildings that are found necessary to house supporting telecommunications equipment;
 6. Establish a community liaison with all adjacent civic associations prior to the construction of the facility and to continue throughout the period of use of the facility;
 7. Comply with FCC regulations relating to radio frequency emissions and FAA regulations on lighting; and
 8. Provide for access, removal of all defunct equipment within six months of discontinuance of use, and bonding of construction and removal.

Objective III: Siting and Design

The City will attempt to mitigate the negative impacts of telecommunications facilities by requiring that providers of telecommunications services:

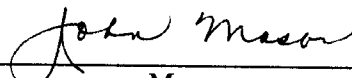
1. Choose locations for proposed new telecommunication facilities for least impact on surrounding neighborhoods while providing adequate service for the area to be served by the proposed facilities;
2. Provide detailed plans and cross-sections of the proposed facilities adequate for determining their impact on nearby neighborhoods;
3. Design all facilities to be aesthetically and architecturally compatible with the surrounding environment to the maximum extent possible;
4. Design all facilities to assure that the telecommunications facilities are not the most prominent visual feature of the site;
5. Use construction materials and color schemes appropriate to the zoning district and to any existing nearby developed properties;
6. Design any necessary utility buildings to be compatible with the character of the surrounding neighborhood;
7. Minimize the number of buildings and equipment cabinets necessary for each location;
8. Screen any ground-level equipment or structure bases using a planting scheme and a wall or fence that together provide the equivalent of "Screen D" described in City Code Section 26-68;
9. Construct antenna facilities no higher above adjacent ground elevation than is reasonably necessary to achieve desired coverage and to permit collocation;

10. Do not illuminate structures or antenna facilities unless required by the Federal Aviation Administration or the FCC. If illumination is required, it should be effectively shielded from neighboring residential properties to the extent possible;
11. Demonstrate that the proposed facility will be safe and structurally sound;
12. Provide to the City a letter of intent committing the provider and all successors in interest to allow shared use of the facility subject to reasonable terms and conditions for collocation;
13. Comply with FCC regulations relating to radio frequency emissions; and
14. Establish a community liaison with all adjacent civic associations prior to the construction of the facility and continue the liaison throughout the period of use of the facility.

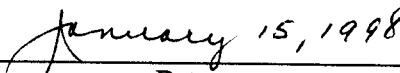
The following additional guidelines will apply to the use of City-owned property and rights-of-way:

1. Any use of City-owned property for telecommunication facilities will require execution by the applicant of a lease agreement with the City acceptable to the City Council.
2. Lease and license agreements for telecommunications facilities will address issues including, but not limited to, access for maintenance, removal on cessation of use, bonding, availability and charges for shared use, compensation to the City for the use of public property, and reimbursement of cost incurred by the City; and
3. The City may require compensation from telecommunications service providers for the use of City-owned property and facilities.

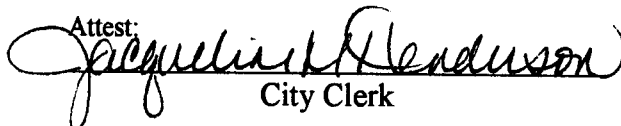
This policy was adopted by City Council on January 13, 1998.



Mayor



Date

Attest:


City Clerk



**CITY OF FAIRFAX
TELECOMMUNICATION FACILITIES EQUIPMENT
CONSTRUCTION/REMOVAL AGREEMENT**

THIS TELECOMMUNICATION FACILITIES AGREEMENT, made this _____ day of _____, 20____, by and between:

_____, party of the first part, and the City of Fairfax, Virginia, a Virginia municipal corporation, hereinafter called "City", party of the second part. Hereinafter, the Agent shall be defined as the City Manager or his designee.

WHEREAS, _____ obtained City Council approval on _____ 20____, of plans for installation of telecommunications equipment at property located at: _____ (the "Property"); and

WHEREAS, City has adopted a policy to ensure the adequate performance by _____ of a pertinent portion of telecommunications policy guidelines, specifically Objective II, Subsection 8, regarding provision for access, removal of defunct equipment within six months of discontinuance of use, and bonding of construction and removal.

NOW, THEREFORE, for and in consideration of the foregoing premises and the following terms and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

The foregoing recitals are hereby incorporated into this Agreement in their entirety.

1. _____, for itself, and its heirs, personal representatives, assigns, or other successors in interest, agrees to construct and install all of the physical improvements and facilities shown on the approved plans and profiles submitted pursuant to (enter all that apply):
 - Special Use Permit No: _____ approved on _____ 20____ by Fairfax City Council;
 - BAR No: _____ approved on _____ 20____, by the City of Fairfax Board of Architectural Review;
 - Administrative Review No: _____ approved on _____ 20____ by the City of Fairfax Zoning Office and approved revisions thereof.

2. It is expressly agreed by the parties hereto that it is the purpose and intent of this Agreement to ensure the proper performance of construction and removal of telecommunication facilities described above. This agreement is to provide for removal and restoration of the communications facility referenced above only and is in no way affiliated to any existing or future agreements between City and _____ for free or discounted rates for cellular service. Any agreements for rates of cellular service will be independent of this agreement.
3. This Agreement shall not be deemed to create or affect any liability of the City to any third party, and _____ agrees to indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all claims, demands, actions, suits or liabilities arising out of this Agreement, including, but not limited to, reasonable attorneys' fees and costs of litigation. _____ shall have no obligation to indemnify and hold harmless the City from and against claims, demands, actions, suits, or liabilities arising from the willful misconduct or gross negligence of the City, its elected officials, officers, employees or agents.
4. _____, at its sole cost and expense, will install, operate, and maintain its communications equipment to enhance the existing coverage so as to not interfere with any other frequencies currently established at the building. _____ intends to install antennae, transmission lines, HVAC, and ancillary equipment and to use as necessary existing building conduit or easements within the property for electrical, telephone, pipes, tubes, etc.
5. Installation, placement and use of the communication equipment and antennae shall be in accordance with the plans, drawings, and specifications prepared and provided by _____ for the City's prior review and approval. All installation, placement, use and operation of the communications equipment by _____ shall comply with all applicable rules and regulation of the FCC, and regulations of any applicable governmental agency.
6. This Agreement shall remain in place for the duration of the use by _____ of the facility as approved. _____ is responsible for notifying the City in writing of the discontinuance of the use of the facility within thirty (30) days of discontinuance. _____ is further responsible for the complete removal of all facilities and structures, including foundations, within six (6) months of the discontinuance of their use ("Removal Period"). _____ also shall regrade, reseed, and restore (as applicable) the property to its original condition prior to the construction of the facility, within six (6) months of the removal of the facility.

7. _____ shall provide within five (5) days of executing this Agreement and City shall hold in escrow the sum of _____ Dollars (\$_____) ("Bond") to ensure removal of said communications facility within the Removal Period. At the end of an initial five (5) year period, any requirement for an increase in the amount of the Bond shall be determined based on changes to the Construction Cost Index as published in the Engineering News Record (www.enr.com).
8. Failure to complete all necessary construction, repairs and/or maintenance as described above shall warrant the City utilizing the Site Bond to complete the required repair and/or maintenance work, including removal of equipment and restoration of the rooftop area. It is further expressly agreed and understood that the measure of damages shall include, and be limited to, the cost of completion and/or correction as set forth above (of which not more than ten percent of the total shall consist of administrative and supervisory costs), maintenance and/or deterioration. Furthermore, the bankruptcy or receivership of _____ shall constitute a default under this Agreement.
9. In the event that _____ does remove the communications equipment and restore the property as required within the Removal Period. The City agrees to return the Bond to _____ within thirty (30) days of the equipment removal.
10. Should any permits, certificates, licenses or other authorization and/or approval for using this location be rejected, canceled, or terminated by any governmental authority, or if radio frequency test results are unsatisfactory, _____ will remove its communications equipment within seven (7) days.
11. _____ provides the following department as a community liaison to respond to concerns raised by the installation or operation of this communications facility and for all notification requirements with respect to this agreement. Concerns shall be addressed to: _____ and the City. By written notice to the City, _____ shall be entitled to substitute a different department and or person for contact and receipt of such notices.
12. _____ represents and warrants that the individual executing this Agreement for _____ has all requisite authority to so execute this Agreement and to bind _____ hereto and that all resolutions necessary for _____ to enter into the Agreement have been duly obtained.

13. If any clause or portion of this Agreement is found not to be valid and binding, the remainder shall continue in full force and effect. The parties intend that each provision of this Agreement be valid and binding upon each and all of them, and expressly agree to abide thereby.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

By: _____
Signature

Name

(Corporate Seal)

Title

Attest: _____

Secretary

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____ County/City/Town of _____ to-wit:

I, the undersigned, A Notary Public in and for the State and County, City or Town aforesaid, do hereby certify that this day personally appeared before me in the State and County, City or Town aforesaid:

(Name) (Title)

whose name(s) is(are) signed to the foregoing and hereunto annexed agreement bearing the _____ day of _____, 2_____, and acknowledged the same before me.

Given under my hand this _____ day of _____, 2_____.

Notary Registration Number#: _____

My Commission expires: _____ day of _____, 2_____.

(Notary Public Signature)

CITY OF FAIRFAX

By: _____
City Attorney – Approved as to Form

By: _____
City Manager

Attest: _____
City Clerk

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

COMMONWEALTH OF VIRGINIA
CITY OF FAIRFAX to-wit:

The foregoing instrument was acknowledged before me this:

_____ day of _____, 2_____, by _____, as City
Manager, on behalf of the City of Fairfax, Virginia.

My Commission expires: _____ day of _____, 2_____.

Notary Registration Number#: _____

(Notary Public Signature)



**CITY OF FAIRFAX
TELECOMMUNICATION EQUIPMENT
CONSTRUCTION/REMOVAL BOND**

Bond Number: _____

KNOW ALL MEN BY THESE PRESENTS:

That _____ party of the first part, hereinafter called Principal, and _____ as Surety, hereinafter called Surety, are held and firmly bound unto the CITY OF FAIRFAX, as Obligee, hereinafter called Obligee, in the amount of: _____ Dollars (\$_____) for the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has entered into a Telecommunication Facilities Equipment Construction/Removal Agreement dated _____ for the telecommunication facility located at: _____, which Telecommunication Facilities Equipment Construction/Removal Agreement is by reference made a part hereof, and

WHEREAS, as a condition of said Telecommunication Facilities Equipment Construction/Removal Agreement requires Principal to provide a Bond guaranteeing the removal of the communications facility within the Removal Period at said location.

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION is such that, if the Principal shall guarantee the removal of the communications facility within the Removal Period in accordance with said Telecommunication Facilities Equipment Construction/Removal Agreement, then this obligation is null and void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, That:

1. It shall be a condition precedent to any right of recovery hereunder, that in event of any default on the part of the Principal, a written statement of the particular facts of such default shall be forwarded to the Surety, within sixty (60) days of the occurrence of such default, delivered by registered mail to Surety at its Home Office located at: _____.
2. That no action, lawsuit or proceeding shall be had or maintained against the Surety on this Bond unless the same be filed and properly served upon the Surety within one year from the effective date of the cancellation of the Bond.
3. That no right of action shall accrue under this Bond to or for the use of a person or entity other than the Obligee, and its successors and assigns.

4. This Bond shall become effective _____.
5. This Bond shall continue in full force and effect until canceled by the Surety by providing thirty (30) days written notice to the Obligee.
6. The liability of the Surety shall in no event exceed the aggregate penal sum of the Bond penalty.
7. If any conflict or inconsistency exists between the Surety's obligation or undertakings as described in the Bond and as described in the underlying document, then the terms of the Bond shall prevail.
8. **This Bond shall not bind the Surety unless the Bond is accepted by the Obligee. The acknowledgment and acceptance of such Bond is demonstrated by signing where indicated below. If this obligation is not accepted by way of signature of the obligee below, this Bond shall be deemed null and void.**

IN WITNESS THEREOF, the parties hereto have hereunto set their hand and seals this _____ day of _____, 20_____.

PRINCIPAL:

By: _____
Signature (Seal)

Name (print) Title

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____, COUNTY/CITY/TOWN OF _____ to-wit:

I, _____, a Notary Public in and for the said State and County, City or Town do hereby certify that:

(Name) (Title)

this day personally appeared before me in the State and County, City or Town whose name(s) is (are) signed to the foregoing writing, dated _____, 20____, and being duly sworn, acknowledged the same to be his (their) own.

Given under my hand this _____ day of _____, 2_____.

Notary Registration Number#: _____

My Commission expires: _____ day of _____, 2_____.

Notary Public Signature

IN FURTHER WITNESS WHEREOF, the **SURETY** herein has caused this bond to be executed on its behalf by _____, Agent by authority of the power of attorney attached hereto.

Surety

By: _____

Agent

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____, COUNTY/CITY/TOWN OF _____ to-wit:

I, _____, a Notary Public in and for the said State and County, City or Town do hereby certify that:

(Name) (Title)

this day personally appeared before me in the State and County, City or Town whose name(s) is (are) signed to the foregoing writing, dated _____, 20____, and being duly sworn, acknowledged the same to be his (their) own.

Given under my hand this _____ day of _____, 2_____.

Notary Registration Number#: _____

My Commission expires: _____ day of _____, 2_____.

Notary Public Signature

The above terms and conditions of this bond have been reviewed and accepted by the City of Fairfax, VA.

Acknowledged and Accepted by: _____, Obligee

By: _____

(Title)

Dated: _____

Return To Address Below:

SAMPLE LETTER OF CREDIT
(Must be on letterhead of the issuing institution)

TO REQUEST DOCUMENT IN WORD FORMAT PLEASE EMAIL: Tina.Gillian@fairfaxva.gov

IRREVOCABLE LETTER OF CREDIT NUMBER: _____

City of Fairfax
City Hall
10455 Armstrong Street
Fairfax, VA 22030

Date of Issuance: _____

Applicant: _____

Beneficiary: City of Fairfax

Project Name & Location: _____

Ladies and Gentlemen:

We hereby open our Irrevocable and Unconditional Letter of Credit No. _____,
effective date _____, for the account of _____
(developer's name) and in favor of the City of Fairfax, Virginia, for the sum of U.S. Dollars not to
exceed in the aggregate _____ Dollars (\$ _____)
available by your sight drafts drawn on (bank name): _____
accompanied by written certification of the Director of Public Works or the City Manager of the City of
Fairfax that the Applicant has:

1. Failed to complete installation of the public improvements in accordance with plan number known as
_____ **or**
2. Failed to meet its obligations in accordance with a TELECOMMUNICATION FACILITIES
Agreement, dated _____ between the Applicant and the City of Fairfax **or**
3. Is not diligently and satisfactorily completing the public improvements set forth on the plan in a
manner that such improvements will be complete by the completion date of the Telecommunication
Facilities Agreement.

We hereby further agree that:

1. All drafts hereunder must bear the clause "Drawn under the (bank name): _____
Letter of Credit Number _____ dated _____."
(NOTE: Letter of Credit shall be drawn under a bank located in the state of Virginia or a
confirming letter must be submitted in conjunction with a Letter of Credit on an institution
outside of the state of Virginia).

2. The Bank hereby engages with drawers, endorsers and bona fide holders that all drafts drawn in compliance with the terms of the Letter of Credit shall be duly honored upon presentation and delivery of such documents.
3. Drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored at the location of the issuing bank if presented at our office on or before _____ (NOTE: this date must be at least six months after the Site Agreement project completion date) and this Letter of Credit shall remain in full force and effect until such Expiration Date.
4. Notwithstanding any other language to the contrary contained elsewhere in this Letter of Credit, it is a condition of this Letter of Credit that it shall automatically renew itself from year to year after the Expiration Date thereof unless and until the Bank shall give ninety (90) days prior written notice to the City Manager or Director of Public Works of the City of Fairfax, Virginia, by certified mail, returned receipt requested, of its intent to terminate same at the expiration of said ninety (90) day period. During said ninety (90) days notice period, this Irrevocable Letter of Credit shall remain in full force and effect.
5. Upon receipt by the Beneficiary of such notice of non-renewal, the Beneficiary may draw upon this Letter of Credit by means of sight drafts accompanied by such written certification of the Director of Public Works or the City Manager as set forth in the opening paragraph of this Letter of Credit.
6. This Letter of Credit may be terminated by the Beneficiary giving a written release to the Applicant and to the Bank stating that the Applicant has furnished the Beneficiary with an acceptable substitute form of surety in an amount required by the Beneficiary.
7. This Letter of Credit is not assignable by the Bank, Beneficiary or Applicant.
8. Funds available under this Letter of Credit shall be paid to the Beneficiary in such amounts and at such times as set forth by the Director of Public Works or City Manager of the City of Fairfax, Virginia in the written certification as set forth in the opening paragraph of this Letter of Credit, provided that the total amount drawn shall not exceed the face amount of this Letter of Credit. Checks will be made payable to the City of Fairfax and directed to the attention of the Director of Public Works or City Manager.
9. The Bank shall have no right, duty, obligation or responsibility to evaluate the performance or nonperformance of any underlying obligations, contractual or otherwise, between the Applicant and the Beneficiary or between the Applicant and any third party.
10. The Bank hereby agrees that no change, extension of time, alteration or addition to the work to be performed or the plans or specifications relating to the same or the Applicant's obligations under the Site Agreement, shall in any way effect the Bank's obligation to honor drafts under this Letter of Credit.
11. Approval of this Letter of Credit by the Beneficiary shall be deemed acceptance thereof without further notice to either the Bank or the Applicant.
12. Notwithstanding any other language to the contrary contained elsewhere in this Letter of Credit, if the Bank becomes critically undercapitalized, as defined in the Code of Federal Regulations, or insolvent, as defined in any applicable federal or state statute or regulation, the Beneficiary shall be immediately entitled to draw on this Letter of Credit. In such event, the Beneficiary may draw on this Letter of Credit by means of sight drafts accompanied by certification of the Director of Public Works or the City Manager that the Bank has become critically undercapitalized, as defined in the Code of Federal Regulations, or insolvent, as defined in any applicable federal or state statute or regulation.

13. This Letter of Credit shall be construed in accordance with the "Uniform Customs and Practices for Commercial Documentary Credits, International Chamber of Commerce" in effect on the date of issuance of this Letter of Credit and the provisions of the Uniform Commercial Code – Letters of Credit – Title 8.5 of the Code of Virginia, 1950 as amended.

Very truly yours,

(Name of Bank)

By: _____
(Name)

Its: _____
(Title)

WITNESS THE FOLLOWING SIGNATURE AND SEAL:

STATE OF _____: COUNTY/CITY/TOWN OF: _____, To wit,

I, _____, A Notary Public in and for the said State and
(Notary Name)

County, City or Town do hereby certify that this day personally appeared before me in my said State and County, City or Town:

(Name) (Title)

Whose name is/are signed to the foregoing in writing, dated _____, 2_____
and being duly sworn acknowledged the same to be his or her (their) own.

Given under my hand this _____ day of _____, 2_____.

My Commission expires: _____ day of _____, 2_____.

Notary Registration Number#: _____

(Notary Public Signature)

Note: A written declaration of authority is required which attests that the signatory has the authority to sign Letter of Credit (LOC) for said Bank. Authority may not be required when the LOC is signed by the President of the issuing Bank.